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Italica: municipium civium romanorum

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Abstract

This article surveys the theories concerning the legal status of the town of Italica prior to its being raised to the rank of a colonia C. R. The conclusion drawn is that despite recent theories to the contrary, the traditional view that Italica held the rank of a municipium civium Romanorum during this period is the correct one. This is followed by a discussion of the provenance and nature of a fragment of a municipal law discovered in the last century possibly at Italica.

From his work on the *tabula Siarensis*, Julian Gonzalez believes that he has detected in this document a deliberate omission of the category of provincial *municipia civium Romanorum* from an all-inclusive list of the types of town with Roman citizen status. The relevant part of the *tabula* reads as follows: "Item senatum vel/le atque aequ(u)m censere pietas omnium ordinum erga domum Augustam et consensum (sic) universorum civium memoria honoranda Germanici Caesaris appareret uti co(n)s(ules) hoc s(enatus) c(onsultum) sub edicto suo proponerent iuberentque mag(istratus) et legatos municipiorum et coloniarum descriptum mittere in municipia et colonias Italiae et in eas colonias quae essent in/ >p/rovinciis eos quoque qui in provinciis praessent recte atque ordine facturos sic hoc s(enatus) c(onsultum) dedissent operam ut quam celeberrimo loco figeretur." (emphasis mine).

Gonzalez denies that the absence of provincial *municipia* in this passage can be the result of an engraver's error. This position has led him to give qualified support of the theories of Charles Saumagne¹.

1. J. Gonzalez, "Tabula Siarensis, Fortunales Siarenses et municipia civium Romanorum", *Z.P.E.* 55 (1984) p.82ff., "El ius Latii y la lex Irnitana", *Athenaeum* 65 (1987) p.317ff., "Los municipia c.R. y la lex Irnitana", *Habis* 17 (1986) p.221ff., the commentary on fragment two of the *tabula Siarensis*, *Inscripciones romanas y visigodas de Utrera* (1988) p.44ff., "Italica, municipium iuris Latini", *M.C.V.20* (1984) p.17ff.

Saumagne's view was that there were no *municipia* outside of Italy with full Roman citizen status². Gonzalez realizes that a series of inscriptions found at Volubilis in North Africa and dating to the reign of Claudius seriously prejudice Saumagne's thesis after this period; hence he qualifies the timescale for which it holds good as follows, "la tabula Siarensis excluye, al menos antes del año 20 de C., la existencia de *municipia civium Romanorum* en las provincias del imperio"³.

This position, even given its more restrained time-span, still has major implications for our understanding of the Western Roman Empire as a whole, and, more particularly, makes necessary a radical reassessment of the status of the Spanish town of Italica. Traditionally it has been assumed that Italica was a *municipium civium Romanorum* from the time of Augustus onwards⁴. However if Gonzalez is right the town cannot have enjoyed full citizen rights, but must instead have been a *municipium iuris Latii*.

Italica was founded by Scipio for his wounded after the battle of Ilipa in 206 B.C.⁵. However the legal status of the town in the Republican period is unclear. Normally it is held that while it would have contained a substantial number of Roman citizens, it possessed no legal status and remained a simple vicus⁶. Gonzalez is probably right to see the description of various citizens of Italica as "municipes" in the *Bellum Alexandrinum* as a non-technical use of this term, which, by the time of Aulus Gellius at least, was commonly used in such a generalized fashion⁷. It would therefore be unwise to draw any conclusions about the town's status from this reference. Even if the term is being used in its strict sense, there is nothing to prevent the reference being to a *municipium* with the *ius Latii* rather than to a *municipium civium Romanorum*.

This is also the case with the coins of the town bearing the title "Munic Italic" and dating from the Augustan period⁸. These do seem to indicate a legal status, but again could, and must, according to Gonzalez' theory, belong to a

2. Ch.Saumagne, *Le Droit Latin et les cites romaines sous l'empire* (1965), for adverse comment, see Sherwin-White's review, *J.R.S.* 58 (1968) p.269f., and his comments in *The Roman Citizenship* (2ed.(1973) p.338ff.

3. op.cit., *M.C.V.*20 (1984) p.26.

4. A. García y Bellido, *Italica* (1960) p.44.

5. Appian, *Iberica*, 38.

6. A. García y Bellido, *Italica* (1960) p. 42f.; R.C.Knapp, *Aspects of the Roman experience in Iberia* (1977) p. 111 ff.

7. Ps.Caesar, *B.Alex* 52; "Ibi T.Vasius et L.Mercello simili confidentia Flaccum municipem suum adiuverant, erant omnes Italicenses." Aulus Gellius, *N.A.* 16.13. See contra however H.Galsterer, *Untersuchungen zum romischen Stadtwesen auf der iberischen Halbinsel* (1971), p.12 with n.48, who argues that this may well be a technical use of the term.

8. A.Vives, *La Moneda Hispanica*, (1924) t.IV pp.126-7 and L.Villaronga, *Numismatica antigua de Hispania* (2ed 1987) nos 1007, 1009.

municipium with Latin rights, for which there are parallels in Tarraconensis, rather than a *municipium civium Romanorum*⁹.

The major piece of evidence which Gonzalez uses to support his position is a fragment of a municipal law variously assigned to Cortagena in the province of Huelva and to Italica¹⁰. The fragment parallels, extremely closely, chapter 90 of the *Lex Irnitana* which deals with the procedure of *in tertium*. Gonzalez believes that these similarities show that the fragment is a small part of another copy of the Flavian Municipal Law promulgated throughout Spain. As he believes that the piece originated in Italica, and since the charter deals with towns of Latin status it follows that Italica ought to have possessed this status.

Although this argument is initially persuasive, there remain several major problems which need to be resolved if it is to be accepted. The first concerns the piece's date. The lettering of the bronze suggests a late second, or early third, century date. Therefore if the fragment is a part of the Flavian Municipal Law it is not the original document, but a much later copy¹¹. It is difficult to understand why a charter dealing with a *municipium iuris Latii* should have been recopied at this date in Italica, as the town had already been granted colonial status by Hadrian some fifty years earlier¹². By this period the title of *colonia* was normally, as in the case of Italica, purely honorific. Nevertheless Hadrian's remarks concerning the Italicenses' request imply that a new charter would have been sent to the town, and its display would have been one of the primary ways of advertising the town's new status.

Italica's new colonial charter might have been in all essentials the same as the old municipal charter, but with a preamble, which, while not interfering with its administration, made the town's enhanced status clear. However, although this would seem plausible had Italica been a *municipium civium Romanorum*, it would not have been possible if the town had been a *municipium iuris Latii*. Such a change in status would have required major adjustments in the provisions of the town's municipal charter; for example those chapters dealing with the granting of Roman citizenship to ex-magistrates would have immediately become redundant.

9. See for example the coins of Ercavica (A.Vives, op.cit., lam.162.1, 162.5) and Cascantum (A.Vives, op.cit. 161.1, 161.4).

10. The piece has an extensive bibliography. Cagnat, *C.R.A.I.* (1904) p.177; Mitteis, *S.Z.* 25 (1904) p.378, & 37 (1916) p.324ff., *Z.S.S.* 37 (1916) p.234ff; Steiner, *Sitzungsh. Akadem. Heidelberg, Phil.-Hist. Kl.* (1916) p.3ff.; Dessau, *S.Z.* 44 (1924) p. 529ff.; Amador de los Rios, *R.A.B.M.* 27 (1912) p.267ff., & *Notas acerca del Museo italice de la Excm. Senora Dona Regla Manjon, viuda de Sanchez Bedoya en Sevilla*, (1913) p.21ff.; A.D'Ors, *Epigrafia Juridica de la Espana Romana* (1953) p.460; J.Gonzalez, "Italica, *municipium iuris Latini*", *M.C.V.* 20 (1984) p.17ff., "More on the Italica fragment of *Lex Municipalis*", *Z.P.E.* 70 (1987) p.217ff.; A.M.Canto, "A propos de la loi municipale de Corticata", *Z.P.E.* 63 (1986) p.217ff.

11. J.Gonzalez, "Italica, *municipium iuris Latini*", *M.C.V.* 20 (1984) p.21.

12. Aulus Gellius *N.A.* 16.13; also attested on epigraphy, see, for example, *A.E.* 1908 150.

It is unlikely therefore that a new copy of the Flavian Municipal Law was published in Italica at the time from which our fragment appears to date. Such a charter would only have been of antiquarian interest, and the cost of its production, particularly given that the date of the fragment coincides with a period of economic hardship, seems to rule out this possibility.

To this problem a further difficulty can be added. Italica was a *municipium*, of whatever status, by the Augustan period (its enrolment in the Sergian tribe may suggest that this privilege had been granted by Caesar rather than Augustus). Hadrian, in a well-known passage of Aulus Gellius¹³, singled it out as a *municipium antiquum* with "sui mores et leges". These comments could not have been made about a town where the Flavian Municipal Law, a highly standardized document, was in force. Hadrian is, presumably, making a serious point in his reference to "municipia antiqua" which possessed their own "mores et leges", demonstrating his erudition in knowing that such *municipia* differed from more recently created ones, which had extremely regularized, centrally created charters. The point of his speech would have been completely lost had Italica possessed a charter of this latter type.

The first question which this problem raises is: did Italica possess a municipal charter predating the one from which a fragment is preserved, and, if so, why was it suppressed in favour of the Flavian charter? Such a question, however, assuming that an original charter was replaced with the Flavian law, still leaves us with a dilemma. Hadrian's words imply that the town still enjoyed its own laws and customs at the time of his speech and so leave no room for this interim period. The emperor reveled in abstruse knowledge and was a native of Italica, so it is difficult to believe that he made an error on this point.

One escape from this problem would be to assume that the Italica fragment is not an exact parallel to the relevant chapter of the *Lex Irnitana*. One phrase found in it, "dari debebit habeto, ita ut", is not present in the corresponding text of the Italica fragment. This may suggest that the *Lex Italicensis* was very similar, but not identical to, the Flavian *Lex Municipalis*, resembling in this respect the fragments of municipal law found at Lauriacum¹⁴. Although our different copies of the Flavian Law abbreviate phrases in slightly different ways and make alterations of quantity, no phrases of this length are omitted. However since we do not have full versions to compare, it is impossible to know whether this generaliza-

13. Aulus Gellius, *N.A.* 16.13.4; "...et ipsi Italicensis, et quaedam item alia municipia antiqua, in quibus Uticenses nominat, cum suis moribus legibusque uti possent, in ius coloniarum mutari gestiverint. Praenestinos autem refert maximo opere a Tiberio imperatore petisse orasseque, ut ex colonia in municipii statum redigerentur."

14. See M. Crawford, in J. Gonzalez, "The Lex Irnitana: a new copy of the Flavian municipal law", *J.R.S.* 76 (1986) app.2, p.241ff.

tion, based on present evidence, is correct. Even if this was the case, the charter still seems to be a product of centralized thinking and would only count with difficulty as constituting "sui mores et leges". Added to all these difficulties are those associated with Hadrian's speech itself. Despite Gonzalez' views, it is unlikely that Hadrian could have drawn a parallel between Italica and Utica on the one hand and Praenestae, a town with unquestionable Roman status, on the other, if these towns had been of markedly different statuses. Although the point at issue is the difference between *municipia* and *coloniae*, the use as counter-examples of *municipia* which differed in status among themselves would have greatly diluted the force of Hadrian's argument, introducing distracting secondary problems into it.

In the case of Utica, Hadrian's other example of a "municipium antiquum", Dio states unambiguously that Augustus made its inhabitants citizens, *politai*¹⁵. Gonzalez argues that Dio drew no distinction between Latin and full Roman citizenship and that this reference is to a grant of the former rather than the latter. In his support he quotes an account of a grant of citizenship to Transpadane Gaul in 49 B.C. as a case of Dio's use of *politeia* to mean Latin, not Roman citizen, rights¹⁶. He further argues that Dio's phrase in this passage, *politas poiesthai*, has a different meaning to that which he uses of a grant to of Gades, *politeian didonai*, and refers not to a grant per se but rather to the reorganization into a *municipium* of a Caesarian *colonia Latina* by Augustus¹⁷.

But Dio's account of the Transpadane region must refer to a grant of Roman, not Latin, citizen rights, as we know that Transpadane Gaul had already received the *ius Latii* from Pompeius Strabo in 89 B.C.¹⁸. Moreover Greek writers had no difficulty in referring to the Latin right in an unambiguous fashion if they wished to do so; for example Strabo refers to Nemausus as possessing "to kaloumenon Lation"¹⁹.

The belief that Utica was granted Latin rights stems from Mommsen²⁰, who proposed that a passage of the *Bellum Africum*²¹, mentioning a "beneficium legis Iuliae" given to the town, referred to a grant of *ius Latii* in 59 B.C.. However Cicero in a passage postdating this proposed grant calls Utica a "civitas libera"²², which implies that it still had no Roman legal status at the time of writing. Consequently it is by no means certain that the town received the Latin right as

15. Dio 42.57.4.

16. Dio 41.36.3.

17. J. Gonzalez, "Los municipia civium Romanorum y la lex Irnitana", *Athenaeum* 65 (1987) p.233.

18. Asconius, *In Pis.* 3, "Cn. Pompeius Strabo... veteribus incolis manentibus ius dedit Latii..."

19. Strabo 4.1.12.

20. *Gesammelte Schriften*, I (1905), p.105.

21. Ps. Caes., *Bel. Afr.* 87.3.

22. Cicero, *Pro Scauro* 19 (written 54 B.C.).

Mommsen envisaged, and the possibility that the *beneficium* concerned was of an entirely different nature cannot be ruled out.

However, even if we accept with Mommsen that Utica had obtained the *ius Latii*, this only strengthens the view that Dio's account refers to a grant of full citizenship. It is difficult to believe that a Latin *colonia* would not already have been organized in a Roman fashion, and therefore Dio cannot be referring simply to a form of municipal reorganization as Gonzalez believes. Moreover it must be remembered that at the time of writing, history was regarded as a form of literature as much as a means of conveying information and therefore we should not be surprised if forms of *variatio* occur. Gonzalez to the contrary, the verb *poiesthai* carries a strong implication of creating something new, and is best seen as such a form of *variatio*. Even if Mommsen's thesis is rejected, there is no clear case of Dio using merely *politeia*, and therefore by extension *politai*, to refer to the *ius Latii*; to have done so would have been to run a grave risk of confusing his readership.

As Sherwin-White notes²³, Hadrian could find no material advantage for the Italicensis in granting their request. This again suggests that Italica already had Roman citizen status, as promotion to colonial status and the subsequent receipt of Roman citizenship would have brought a major benefit to the inhabitants of a *municipium* with the *ius Latii*. The majority of these would not have been able to obtain Roman citizenship through the *per honorem* grants of a Latin town which allowed no more than six members of such a community at most to receive Roman citizenship each year. This low figure was probably even smaller in most years, since many *duoviri* and their families would have already obtained the citizenship on becoming *aediles*. In addition, given the tendency of a few families to dominate local politics, and the monetary qualifications required to hold office, which ensured that the poor could not enter politics, the chances of the creation of fresh Roman citizens would be smaller still. There would therefore still be a considerable number of non-Roman citizens in a *municipium iuris Latii* even after a lengthy period of time from the original grant of this status. Consequently promotion to colonial status would hold considerable advantages for a large number of citizens of such a community.

Not only Hadrian's, but Gellius' own arguments too, would have been greatly weakened had the *municipia* discussed in this passage of the *Noctes Atticae* been of Latin as well as of Roman citizen status. Gellius starts his discussion by complaining about the lax use of the phrase "municeps". He then goes on to quote Hadrian's speech as a good explanation of how, in fact, "municipes" and "coloni" differed. From the speech he draws a strict definition of "municipes", continuing

23. A.N.Sherwin-White, *The Roman Citizenship* (2ed.1973), p.345 n.5.

"Municipes ergo (a reference back to Hadrian's speech) sunt cives Romani ex municipiis legibus suis et suo iure utentes"²⁴. The rest of his section on the subject goes on to discuss the issue in terms of this definition. Had there been no *municipia civium Romanorum* outside Italy, as Saumagne and Gonzalez believe, and Hadrian's examples consequently been *municipia* of Latin status, the error in Gellius' erudite argument would have been glaringly obvious to his readership, and as such it is best to assume that the anecdote he drew on was suitable to illustrate his point.

A final piece of evidence suggesting that Italica was a *municipium civium Romanorum* prior to its elevation to colonial status comes from a tombstone found at Aquileia. This records a certain L. Rutius Sabinus, a soldier of *Legio X Gemina* from Italica and enrolled in the Sergian tribe²⁵. Sabinus was probably recruited in the mid-first century A.D., i.e. prior to Hadrian's colonial grant to Italica, and when the town would according to Gonzalez have been a *municipium iuris Latii*²⁶. However the fact that Sabinus was a legionary suggests that this was not the case - the legions were recruited exclusively from Roman citizens²⁷. On his tombstone Sabinus is described as a common soldier, a *miles*, not an officer. This seems to rule out the possibility that he was a local notable from Italica who after receiving his Roman citizenship *per honorem* in his home town had subsequently decided to embark on a wider military career. Similarly the fact that Sabinus has a tribal affiliation also suggests strongly that he was a *civis Romanus*, not a *civis Latinus*. There is no evidence that the *cives Latini* of the Imperial period had tribal affiliation, certainly the republican groups of *Latini* which they were modeled upon did not have such affiliation.

Given these problems, we need to look again at the evidence concerning the provenance of the fragment, claimed by Gonzalez to have come from Italica. The piece was first published by Cagnat who received a "copie sommaire" of it from Paris who in turn had obtained this from Engel. According to the latter the piece was found in Cortagena²⁸. However the Spanish scholar, Amador de los Rios, remarked that he had spoken to the sellers of the fragment who told him that it had come from the same place as "la notabilissima tabula", i.e. the major inscription on the regulation of gladiatorial games found at Italica²⁹.

24. Aulus Gellius, *N.A.* 16.13.6.

25. *C.I.L.* 5.932 "L. Rutius L. f. (ilius) Serg(ia) Italica Sabinus ex Hispania mil(es) leg(ionis) X Gem(inae) (centuriae) Serani ann(or)um L. aer(or)um XXVI H(ic) S(itus) E(st) h(eres) ex t(estamento) loc(um) m(onument) in fr(onte) p(edes) X in ag(ro) p(edes) X.

26. P. Le Roux, *L'Armée Romaine et l'Organisation des Provinces Iberiques d'Auguste à l'Invasion de 409* (1982) p. 181, no 34.

27. G.R. Watson, *The Roman Soldier* (1969) p. 38ff.

28. Cagnat, *op. cit.* above, n. 8.

29. Amador de los Rios, *op. cit.* above n. 8.

This evidence can be doubted on several grounds. First, Canto³⁰ has established that Engel was excavating in the area of Italica at the time when the fragment was found, so it seems unlikely that, even although he was not involved in the recovery of the piece itself, its discovery would not have come to his attention. Secondly the source of the find given by the vendors of the piece seems suspicious, and perhaps designed to give it a source which might, in their opinion, increase its value.

Nevertheless there are still problems with assigning the piece to Cortagena. The first is the number of errors which the "copie sommaire" exhibits when compared to the original fragment, and its omission of column b of the text. These suggest to Gonzalez that Engel never saw the piece himself, but merely received a tracing of it from its owner. Moreover, as Gonzalez has pointed out, there are no large archaeological sites near Cortagena, to offer a likely location for the original *municipium* of the fragment. In addition Gonzalez rightly notes that the old equation of Cortagena with the ancient town of Corticata is, on strict linguistic criteria, extremely dubious³¹.

Canto recognises these problems, and suggests that, while Cortagena may not have been the original location of the fragment, it might have come from another site in the same area, above all from Aroche which is only a few miles distant, and the site of the ancient town of Arucci.

This prompts Gonzalez to ask why, if the piece came from Aroche, a much better known archaeological site, Engel was told that it came from Cortagena. Nevertheless such an objection need not be overwhelming; archaeological fragments can have a tendency to "move" away from their original sites. This is especially true of those made of valuable materials such as bronze. The *Tabula Salpensana*, for example, was not found on the site of the ancient town of Salpensana near Utrera, but near Malaga, some seventy-five miles away from its original location. Consequently it would be quite feasible that our fragment, although found in Aroche, or elsewhere, passed through various hands before arriving at Cortagena where it subsequently came into the possession of Engel's informant. Gonzalez' question, although pertinent, may in fact lend weight to the Cortagena theory. Why, if there was nothing to gain, would those concerned say the fragment came from a little-known village in the province of Huelva? Even if the owner of the piece was trying to cover up its real origin, it is unlikely that he would have hit on this particular obscure village as a false find spot. Nor need Gonzalez' point about the small size of the archaeological sites near Cortagena area present an insurmountable problem. This imports a preconceived idea of what a Roman town ought to be like

30. A.M. Canto, *op.cit.* above n. 8, esp. p. 218 & nn. 12-14.

31. J. Gonzalez, "More...", *Z.P.E.* 70 (1987) p. 219.

into the argument. However we know from Pausanias that exceptionally small and poor sites, lacking virtually all the normally accepted criteria for urban life, were accepted as administrative units in the Roman Empire³². Such minor sites also existed in areas of Italy itself³³. After Vespasian's universal grant of the *ius Latii* to Spain a large number of such incongruous units must have come into being, not only in the North West of the peninsula, but also in other areas of low urbanization such as the province of Huelva. Finally the linguistic point that Cortagena may not have been Corticata cannot be said to rule out the existence of another Roman site with a different name here or close by.

Nevertheless the late date of the fragment could cause problems for supporters of the Cortagena provenance. Given the poverty of sites in this area, the cost of producing a copy of its municipal charter would have been enormous for the community concerned, perhaps prohibitively so. The compact nature of the fragment, which implies that the full text of the law would have taken up only six tablets rather than the ten required by the *Lex Irnitana*³⁴, hints that economics were a factor in its creation. This in turn might imply that it came from a poor town rather than a wealthy one and hence that Cortagena is the more likely find spot. However such economising may also have been necessary at Italica at the time of the charter's creation. The factor of the cost of production therefore must leave open a question over the provenance of the fragment.

The omissions found in Cagnat's text are perhaps a stronger argument against a provenance from Cortagena, as they could suggest, as Gonzalez believes, that Engel himself never saw the piece and was merely relying on the word of its owner for its provenance. However it must be remembered that what is involved is not a fine copy, but only a "copie sommaire". Moreover the omission of column b is understandable in such a context, seeing that it comprises only five words, partially lost at the edge of the tablet. Errors in transcription are also understandable given that the document concerned was only a rough copy and the difficulty of the actual text which contains various grammatical errors. These errors would therefore be understandable if the tracing was made, as Gonzalez suggests, by the owner of the piece, who would not have been an expert in ancient epigraphy and may have come to the conclusion that the small mutilated fragment of column b would be of no interest to anyone. Even if Engel never saw the piece himself, this need not have any bearing on his view that the piece came from Cortagena. Moreover it is difficult to see how, even had he seen the fragment, Engel could

32. See Pausanias' scathing references to the town of Panopeus in Phocia, 10.4.1-7.

33. See, for example, Strabo 5.3.1 & 5.4.2. The town of Rudiae in Southern Italy appears only to have had 500 adult male inhabitants, yet to have possessed the entire set of municipal administrative titles, *I.L.S.* 6472.

34. J. Gonzalez, "Italica...", *M.C.V.* 20 (1984) p. 21.

have used any source other than the owner's account to discover its origin. He would have been on his guard against the possibility of false claims and, as has been seen above, such a claim for the village of Cortagena seems unlikely. On balance therefore the evidence points to the fragment coming from Cortagena rather than Italica.

The discrepancy in the phrasing of the fragment from that found in the *Lex Irnitana* might also lead to a question as to whether the fragment is part of the Flavian *Lex Municipalis*. Unfortunately, as noted above, it is impossible to come to a firm opinion as to what degree of deviation from standard phraseology was permitted, or simply occurred because of engravers' errors, in copies of the Flavian law. If, as for Gonzalez, the additional phrase is permissible, there is still no objection to a provenance from Cortagena. On the other hand, if it is not, and the law is not a copy of the Flavian charter, our fragment cannot have come from Cortagena, as the Flavian charter is the only municipal law this site would have possessed. Nevertheless even if this is the case, it holds no comfort for Gonzalez for although the provenance of the piece will be from Italica, the link between it and the Flavian Municipal Law, and hence a firm confirmation of the town's Latin status, will be broken.

These two final factors still make the provenance of the fragment an issue for debate. Nonetheless the bulk of our evidence must be said to point to a provenance from Cortagena.

Nevertheless if the fragment is from Italica, it still might not be correct to see it as part of the Flavian Municipal Law. This assumption is based purely on the similarity of the wording of the fragment to that of the *Lex Irnitana*; there is no indication in the fragment itself of the status, or indeed the name, of the community to which the law it embodies was to be applied. The Flavian law incorporates a large number of purely Roman procedures which must have differed very little, if at all, from those used in *coloniae* or the *municipia* of Italy, i.e. towns of Roman citizen status, which may have formed the blueprint for the Flavian charter. In the case of colonial law we can see that some parts of it were incorporated into the Flavian Municipal Law; in chapter 79 of the *Lex Irnitana* "coloni" has been mistakenly engraved instead of "municipes", showing that such a process has taken place. The fragment therefore, given its purely Roman content, would be equally at home in a charter of a *municipium civium Romanorum* as in one of a *municipium iuris Latii*.

Given the date of the fragment, which postdates Italica's acquisition of colonial status, there seems to be another and more satisfactory solution. This is that the fragment, if it does come from Italica, is a part of a copy of the colonial charter granted to the town by Hadrian. This would fit far better with the chronology of the piece, and eliminate the unlikely occurrence of an expensive

recopying of an obsolete law. This solution would also explain the slight, but noticeable, discrepancy in wording between the fragment and the *Lex Irnitana*.

There is therefore to be no sound reason to assume that our fragment can prove that Italica was of Latin, rather than of Roman citizen status. There are problems not only with the provenance of the piece, which suggest that the fragment comes from the village of Cortagena, and also, if it was in fact found at Italica, major difficulties in assuming it was a fragment of a municipal charter from a town with the *ius Latii* rather than of a later colonial charter. In short we appear either to have a small fragment of the Flavian Municipal Law from the province of Huelva, probably the most likely solution, or a fragment of a colonial, rather than municipal charter from Italica.

As a consequence it seems reasonable to assert that Italica was a *municipium civium Romanorum*, as traditionally thought, prior to its acquisition of colonial status. A consequence of this is that Gonzalez is mistaken in his interpretation of the *Tabula Siarensis* and that the omission of provincial *municipia civium Romanorum* in this document is the result of an engraver's error.

In fact earlier in the *tabula* there does seem to be an implication that such communities exist. This is found in fragment 2, column a, line 8. Here there is a provision that the magistrates of the communities affected by the provisions of the *tabula* are to do no work on the anniversary of Germanicus' death. The magistrates concerned are said to be those "in] municipio aut colonia c(ivium) R(omanorum) aut Latinorum". The two "aut"s are best taken as co-ordinate here, and the phrase translated as "in the municipalities and colonies, those of Roman citizen or Latin status". Such a reading would allow the inclusion of provincial *municipia civium Romanorum*. Indeed if the phrase c(ivium) R(omanorum) is assumed only to govern "colonia" here a further problem appears. This is that Latin communities had ceased to exist in Italy by the time the *tabula* was promulgated. We are therefore led by strict logic to the conclusion that all Latin communities in the provinces must have had the title *Colonia*. However this cannot be right: as we have seen Italica's coins show that, whatever judicial status it possessed, the town had the official title of "municipium" not "colonia" at this date.

That errors occurred in epigraphic copies of important legal documents is shown by chapter 79 of the *Lex Irnitana*, discussed above, where "colonos" instead of "municipes" is used to describe the inhabitants of this *municipium iuris Latii*.³⁵ Moreover we can see that the engraver of the *tabula Siarensis* did not have his mind entirely on his work. Immediately prior to the list of communities under

35. J. Gonzalez, "The *Lex Irnitana*, a new copy of the Flavian Municipal Law", *J.R.S.* 76 (1986) p.147ff, p.225..

discussion we find the mis-engraving of "consensum" for "consensus". It is not difficult to imagine that an inattentive workman could have omitted "municipia" in such a repetitive phrase. Moreover there is a further reason for thinking that an error may have been made in the engraving of the *tabula Siarensis* at the point seized upon by Gonzalez. The normal order of precedence of the communities concerned in Italy, *municipia et coloniae*, was reversed to *coloniae et municipia* in the provinces.³⁶ It would be simple for an engraver to forget this fact and mistakenly assume, after engraving *coloniae*, that he had already included the provincial *municipia*. Consequently it seems reasonable to read the relevant part of the tabula as "in municipia et colonias Italiae et in eas colonias (et municipia) quae essent in/ >p/rovinciis."

It appears therefore that Gonzalez' approach cannot be sustained on either a general or a more specific basis. Consequently the traditional view of the evolution of Italica should be correct; namely that prior to its grant of colonial status from its most illustrious citizen, the Emperor Hadrian, Italica had been not a *municipium iuris Latii*, but a *municipium civium Romanorum*, a rank it had obtained from either Caesar or Augustus, prior to which it had been a mere peregrine settlement.

36. For Italy see the *Tabula Heraclensis* (F.I.R.A.1.13), 183ff, the Lex Rubria (F.I.R.A.1.19) ch.21, and the fragmentum Atestinum (F.I.R.A.1.20) ll 5-10. For the provincial order see, for example, Pliny's list of the towns of Baetica, N.H.3.1.8.